



COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF ATTORNEY GENERAL  
HARRISBURG, PA. 17120

ERNEST D. PREATE, JR.  
ATTORNEY GENERAL

April 29, 1992

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FILE

Federal Communications Commission  
Office of the Secretary

16TH FLOOR  
STRAWBERRY SQUARE  
HARRISBURG, PA. 17120  
(717) 787-3391

Public Protection Division  
14th Floor Strawberry Square  
Harrisburg, PA 17120  
(717) 787-9716

RM-7990  
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Ms. Donna R. Searcy  
Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 22  
Washington, D.C. 20554

APR 30 1992

FCC MAIL BRANCH

Dear Ms. Searcy:

Re: CC Docket No. 91-65

Enclosed please find an original and five copies of a Petition for Clarification and Modification, in the above captioned matter filed on behalf of the States listed in the Petition and the National Association of Attorneys General, 900 Number Subcommittee.

As per the attached certificate of service, copies of this document are being served upon the parties of record in the above captioned docket.

Sincerely,

Daniel Clearfield  
Executive Deputy Attorney General

Attachment  
DC/ss/avc  
cc: Parties of Record

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

APR 30 1992

FCC MAIL BRANCH

In the Matter of

Policies and Rules Concerning  
Interstate 900 Telecommunications  
Services

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CC Docket No. 91-65

RM 7990

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APR 30 1992

Federal Communications Commission  
Office of the Secretary

PETITION FOR CLARIFICATION AND MODIFICATION

The States of Connecticut, Tennessee, Pennsylvania, New Jersey, Alabama, Arizona, Arkansas, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Oregon, Rhode Island, South Dakota, Texas, Vermont, Virginia, Washington, Wisconsin, Wyoming, and the 900 Number Subcommittee of the Consumer Protection Committee, National Association of Attorneys General (hereinafter "the States") hereby submit this Petition for Clarification and Modification of the Commission's Pay-Per-Call Services Order\* requesting that the Commission issue an order: (1) clearly affirming that pay-per-call services that use standard inward WATS (800 Number) service are covered by and must comply with the Commission's pay-per-call rules; and (2) when used for pay-per-call services, prohibiting interstate carriers from providing standard inward WATS service where consumers are billed by the use of either tone generation technology, automatic number identification or billing detail information. In support of this Petition, the States represent as follows:

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\* Policies and Rules Concerning Interstate 900 Telecommunications Services, CC Docket No. 91-65, Report and order, 6 FCC Rcd. 6166 (1991).

1. In its Pay-Per Call Services Order, the Federal Communications Commission (FCC) promulgated rules providing certain standards and requirements for pay-per-call services.

2. Those rules, in summary, require that common carriers may provide interstate transmission for pay-per-call services only under the terms and conditions required by FCC rules.

3. The terms and conditions applicable to "pay-per-call" services include a requirement that programs must begin with a clearly understandable preamble that states: 1) the cost of the call; 2) the rate by minute; 3) the total cost for the call if the duration of the program can be determined; 4) the name of the information provider and an accurate description of the information or service that the caller will receive for the fee; and 5) that billing for the call will commence only after a specific identified event following the disclosure message, such as a signal tone.

4. The state Attorneys General listed herein are the chief law enforcement officers of their respective states and are active in the handling of individual pay-per-call complaints and the prosecution of pay-per-call cases.

5. In the past several months, the States have observed the proliferation of pay-per-call services which solicit calls by the use of "free" 800 inward WATS lines. In some cases, callers are directed to a separate 900 number; in others, callers are induced to continue with these calls or to take some other step which results in the caller being billed

for the call or the service provided on the call. The billed charges are reflected in the form of a standard "900 number" charge from an interexchange carrier, or a separate bill from a billing agent.

6. In the opinion of the States, certain of these 800 pay-per-call services are not complying with the requirements of the FCC Pay-Per-Call Order and, in some instances, are using deceptive and misleading tactics to induce callers to complete the call, resulting in a bill for the call. Upon receiving the bill for the call and "service" many consumers remit the charges because they are confused about whether they in fact had agreed to incur the charge or are concerned that non-payment might threaten the continued availability of their telephone service.

7. An example of a service which, in the opinion of several of the States, violates the FCC Rule and is deceptive and misleading is a recent "Sweepstakes" prize promotion. Allied Marketing Group, Inc. of Dallas Texas, doing business as "Sweepstakes Clearinghouse," distributed a postcard nationwide soliciting consumers to call one of several 800 numbers to find out which of several prizes listed on the postcard they had been awarded. The postcard included large, bold type stating that the call was "toll free." When consumers called the 800 number, the "free" nature of the call was reiterated as part of the pre-recorded message.

In complaints filed by several of the states, it has been alleged that, later in the message, there was a contradictory reference -- easily misunderstood -- which indicated that if the caller stayed on the line to claim and receive the prize "immediately" the caller would be billed at a rate of \$3.90 per minute. Callers who stayed on the line (and, based upon complaints received, even some who hung up after the message) received

bills, most often in the amount of \$15.60 from an affiliate of Allied, Audio Telecom of Dallas, Texas.

8. The States have received numerous complaints regarding this promotion. Consumers have alleged that they thought that the 800 number call was free and were never told on the call or did not understand that they were going to be billed for this "free" call. In addition to these deceptive practices, the States allege herein that the Sweepstakes Clearinghouse "service" failed to comply with virtually any aspect of the FCC rule. No preamble was provided which, in a clearly understandable and accurate manner, disclosed the total cost of the call, the nature of the service and that billing would occur only after a specific, identified event.

A number of States have responded to this particular promotion by filing lawsuits against Allied Marketing under their respective state consumer protection laws. As of the date of this filing, states that have filed suit regarding this promotion include: Arkansas, Connecticut, Florida, Idaho, Illinois, Kansas, Minnesota, Missouri, Tennessee and Washington. Several other states have advised Allied that they plan to sue if voluntary settlements can not be arranged. An exemplary version of such a lawsuit, filed by Attorney General Burson of Tennessee, is included as Attachment "A" hereto. While these suits will address many of the deceptive and misleading aspects of this particular promotion, consumers should at minimum receive the protections contemplated by the FCC for pay-per-call services for all future 800 number pay-per-call services.

9. The use of an 800 number to provide a pay-per-call service where the caller is billed merely by staying on the line or inputting data through tone generation is inherently misleading. Thousands of businesses and scores of government agencies regularly promote toll free 800 services. Most consumers have grown to equate "800" with a free call. Moreover, using 800 numbers circumvents the FCC's 900 number blocking protections that were mandated in the Pay-Per-Call Order. It is important, therefore, that: (1) carriers and service providers be placed on notice that 800 number pay-per-call services are covered by and must comply with the FCC rule; and (2) interexchange carriers should be barred from providing 800 number services to pay-per-call providers that use standard, inward WATS services and bill consumers by the use of either tone generation technology, automatic number identification or billing detail as a result of making the 800 number call. This clarification and modification of the Rules will best address the inherently misleading nature of this practice.

10. The FCC's recent Pay-Per-Call Order defines a pay-per-call service as follows:

"Pay-per-call" services are telecommunications services which permit simultaneous calling by a large number of callers to a single telephone number and for which the calling party is assessed, by virtue of completing the call, a charge that is not dependent on the existence of a presubscription relationship and for which the caller pays a per-call or per-time-interval charge that is greater than, or in addition to, the charge for transmission of the call. Pay-Per-Call Order, App.B. §64.709.

11. The above definition obviously include 900 numbers to which consumers are referred by 800 numbers. "800 number" recorded message services which bill callers for the call or for a "service" received on the

call as a result of staying on the call or by inputting data such as the caller's telephone number or a "claim number" through the use of a tone generator also satisfies the definition of a pay-per-call service under the FCC rule.

12. The Pay-Per-Call Order specifically contemplated that these 800 number "pay-per-call" services would be covered. The FCC discussed this issue in the order as follows:

The [Notice of Proposed Rulemaking] requested comments on whether these rules should extend beyond interstate 900 services to apply to other exchanges . . . on which interstate pay-per-call services are offered.

\*\*\*

The comments overwhelmingly support the position that our rules should apply to all interstate pay-per-call services, regardless of which exchange they are offered on . [Some] commenters raise concerns about the impact of applying these rules to other exchanges, such as 700, 800, 976 or 540.

Pay-Per-Call Order, ¶¶ 80, 81 (footnotes omitted).

The FCC clearly concluded, however, that the definition of a pay-per-call service "is intended to include all interstate information services offered on a transactional basis ... Under the rule, calls will be considered "complet[ed]" when charges are assessed, not when the entire information program has been provided." Pay-Per-Call Order, ¶82. Thus, there should be no question that pay-per-call services using 800 numbers were intended to be covered by the FCC Order. This intention should be clearly and unambiguously affirmed.

13. Because of their inherently misleading nature, the FCC should take the additional step of prohibiting carriers from providing 800 number

service to information providers when the service bills consumers by the use of either tone generation technology, or the use of data supplied through automatic number identification or carrier provided billing detail as a result of the 800 call itself. Such a restriction will provide minimal protections to consumers and will make it less likely that consumers will be billed for services for which they never agreed to pay.

14. Many pay-per-call services exist which utilize 800 inward WATS but which bill the customer only if he or she affirmatively provides a pre-existing revolving credit account (e.g., VISA, Mastercard, etc.) number and expiration date for the purpose of being charged for the call. This Petition does not call for the prohibition of such billing mechanisms. The States have received relatively few complaints about such pay-per-call services. It is reasonable to assume that a consumer who provides a credit card number after hearing a preamble that conforms to the Pay-Per-Call Order requirements usually is contemplating that he or she will be billed for the ensuing call and thus the likelihood that a consumer will be misled by conflicting advertising or representations is lessened.

WHEREFORE, the States listed below, and the NAAG 900 Number Subcommittee respectfully request that the FCC issue an order in this docket: (1) clearly affirming that pay-per-call services that use standard inward WATS (800 Number) service are covered by and must comply with the Commission's pay-per-call rules; and (2) when used for pay-per-call services, prohibiting interstate carriers from providing standard inward WATS service where consumers are billed by the use of either tone generation technology, automatic number identification or billing detail information.



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Respectfully submitted,

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STATE OF CONNECTICUT  
RICHARD BLUMENTHAL  
ATTORNEY GENERAL

FCC MAIL BRANCH

By: Neil G. Fishman/sc  
Neil G. Fishman  
Assistant Attorney General

STATE OF TENNESSEE  
CHARLES W. BURSON  
ATTORNEY GENERAL

By: Cynthia Carter/sc  
Cynthia Carter  
Assistant Attorney General

STATE OF NEW JERSEY AND  
NAAG 900 NUMBER SUBCOMMITTEE,  
CONSUMER PROTECTION COMMITTEE  
ROBERT DEL TUFO  
ATTORNEY GENERAL AND CHAIRMAN OF  
THE SUBCOMMITTEE

By: Sarah E. Fitzpatrick/sc  
Sarah E. Fitzpatrick  
Deputy Attorney General

COMMONWEALTH OF PENNSYLVANIA  
ERNEST D. PREATE, JR.  
ATTORNEY GENERAL

By: Daniel Clearfield  
Daniel Clearfield  
Executive Deputy Attorney General

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FCC MAIL BRANCH

**THE STATE OF ALABAMA  
JAMES H. EVANS, ATTORNEY GENERAL**

By: Dennis Wright, Assistant Attorney General  
11 S. Union Street  
Montgomery, AL 36130

**THE STATE OF ARIZONA  
GRANT WOODS, ATTORNEY GENERAL**

By: Noreen R. Matts, Assistant Attorney General  
402 W. Congress, Suite 315  
Tucson, AZ 85745

**THE STATE OF ARKANSAS  
WINSTON BRYANT, ATTORNEY GENERAL**

By: Kay G. DeWitt, Deputy Attorney General  
200 Tower Building, 323 Center Street  
Little Rock, AR 72201

**THE STATE OF FLORIDA  
ROBERT A. BUTTERWORTH, ATTORNEY GENERAL**

By: Mike Twomey, Assistant Attorney General  
Room 1601, The Capitol  
Tallahassee, FL 32399-1050

**THE STATE OF IDAHO  
LARRY ECHOHAWK, ATTORNEY GENERAL**

By: Brett DeLange, Deputy Attorney General  
State House, Room 113A  
Boise, ID 83706

**THE STATE OF ILLINOIS  
ROLAND W. BURRIS, ATTORNEY GENERAL**

By: Ralph E. Williams, Assistant Attorney General  
500 S. Second Street  
Springfield, IL 62706

**THE STATE OF INDIANA  
LINLEY E. PEARSON, ATTORNEY GENERAL**

By: Steven A. Taterka, Deputy Attorney General  
219 State House  
Indianapolis, IN 46204

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FCC MAIL BRANCH

**THE STATE OF IOWA  
BONNIE J. CAMPBELL, ATTORNEY GENERAL**

By: Pamela Griebel, Assistant Attorney General  
Hoover Building, 2nd Floor  
Des Moines, IA 50319

**THE STATE OF KANSAS  
ROBERT T. STEPHAN, ATTORNEY GENERAL**

By: David C. Wetzler, Assistant Attorney General  
Kansas Judicial Center  
Topeka, KS 66612

**THE STATE OF LOUISIANA  
RICHARD DEYOUB, ATTORNEY GENERAL**

By: Tamera A. Rudd, Assistant Attorney General  
P.O. Box 94095  
Baton Rouge, LA 70125

**THE STATE OF MAINE  
MICHAEL E. CARPENTER, ATTORNEY GENERAL**

By: Francis E. Ackerman, Assistant Attorney General  
State House Station 6  
Augusta, ME 04333

**THE STATE OF MARYLAND  
J. JOSEPH CURRAN, JR., ATTORNEY GENERAL**

By: William Leibovici, Assistant Attorney General  
200 St. Paul Place, 16th Floor  
Baltimore, MD 21202

**THE COMMONWEALTH OF MASSACHUSETTS  
SCOTT HARSHBARGER, ATTORNEY GENERAL**

By: Edgar Dworsky, Assistant Attorney General  
1 Ashburton Place  
Boston, MA 02108

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**THE STATE OF MICHIGAN  
FRANK J. KELLEY, ATTORNEY GENERAL**

By: Frederick H. Hoffecker, Assistant Attorney General  
Consumer Protection Division  
P.O. Box 30213  
Lansing, MI 48909

**THE STATE OF MINNESOTA  
HUBERT H. HUMPHREY, III., ATTORNEY GENERAL**

By: Roberta J. Cordano, Special Assistant Attorney General  
Suite 1400 NCL Tower  
445 Minnesota Street  
St. Paul, MN 55155

**THE STATE OF MISSOURI  
WILLIAM L. WEBSTER, ATTORNEY GENERAL**

By: Nancy Appelquist Allen, Assistant Attorney General  
149 Park Central Square #1017  
Springfield, MO 65806

**THE STATE OF NEVADA  
FRANKIE SUE DEL PAPA, ATTORNEY GENERAL**

By: Colette L. Rausch, Deputy Attorney General  
401 South Third Street, #500  
Las Vegas, NV 89101

**THE STATE OF NEW HAMPSHIRE  
JOHN P. ARNOLD, ATTORNEY GENERAL**

By: Charles T. Putnam, Senior Assistant Attorney General  
25 Capitol Street  
Concord, NH 03301-6397

**THE STATE OF NEW MEXICO  
TOM UDALL, ATTORNEY GENERAL**

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By: Roberta D. Joe, Assistant Attorney General  
Bataan Memorial Building  
P.O. Drawer 1508  
Santa Fe, NM 87504

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FCC MAIL BRANCH

**THE STATE OF NORTH CAROLINA  
LACY H. THORNBURG, ATTORNEY GENERAL**

By: L. Darlene Graham, Assistant Attorney General  
P.O. Box 629  
Raleigh, NC 27602

**THE STATE OF NORTH DAKOTA  
NICHOLAS J. SPAETH, ATTORNEY GENERAL**

By: David W. Huey, Assistant Attorney General  
600 East Boulevard Avenue  
Bismarck, ND 58505

**THE STATE OF OREGON  
CHARLES S. CROOKHAM, ATTORNEY GENERAL**

By: Tim Wood, Attorney-in-Charge  
100 Justice Building  
Salem, OR 97310

**THE STATE OF RHODE ISLAND  
JAMES E. O'NEIL, ATTORNEY GENERAL**

By: Robert Botvin, Assistant Attorney General  
72 Pine Street  
Providence, RI 02903

**THE STATE OF SOUTH DAKOTA  
MARK W. BARNETT, ATTORNEY GENERAL**

By: Jeffrey P. Hallem, Assistant Attorney General  
500 East Capitol  
Pierre, SD 57501-5070

**THE STATE OF TEXAS  
DAN MORALES, ATTORNEY GENERAL**

By: Craig Jordan, Assistant Attorney General  
714 Jackson Street, Suite 700  
Dallas, TX 75202-4506

**THE STATE OF VERMONT  
JEFFREY L. AMESTOY, ATTORNEY GENERAL**

By: Julie Brill, Assistant Attorney General  
Pavilion Office Building  
Montpelier, VT 05602

**THE COMMONWEALTH OF VIRGINIA  
MARY SUE TERRY, ATTORNEY GENERAL**

By: Frank Seales, Jr., Senior Assistant Attorney General  
101 North 8th Street  
Richmond, VA 23219

**THE STATE OF WASHINGTON  
KENNETH O. EIKENBERRY, ATTORNEY GENERAL**

By: David M. Horn, Assistant Attorney General  
900 4th Avenue, Suite 2000  
Seattle, WA 98164-1012

**THE STATE OF WISCONSIN  
JAMES E. DOYLE, ATTORNEY GENERAL**

By: David J. Gilles, Assistant Attorney General  
P.O. Box 7856  
Madison, WI 53707-7856

**THE STATE OF WYOMING  
JOSEPH B. MEYER, ATTORNEY GENERAL**

By: Mark T. Moran, Assistant Attorney General  
123 Capitol Building  
Cheyenne, WY 82002

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"Attachment A"

IN THE CHANCERY COURT FOR WILLIAMSON COUNTY, TENNESSEE

STATE OF TENNESSEE,

Plaintiff,

v.

ALLIED MARKETING GROUP, INC.  
d/b/a/ SWEEPSTAKES CLEARINGHOUSE,  
SWEEPSTAKES CLEARINGHOUSE,  
and AUDIO TELECOM,

Defendants.

FILED 3-13-92  
ENTERED 6:11 PM  
BOOK \_\_\_\_\_ PAGE \_\_\_\_\_  
JANICE W. JORDAN, Clerk & Master

No. 21258

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COMPLAINT

This civil action is brought in the name of the State of Tennessee by and through the Attorney General and Reporter ("Attorney General"), pursuant to Tenn. Code Ann. §§ 47-18-108(a)(1) and 47-18-114, at the request of the Division of Consumer Affairs of the Tennessee Department of Commerce and Insurance (the "Division"), having reason to believe that the Defendants named herein have violated and are continuing to violate the Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. § 47-18-101, et seq. and the welfare of the public requiring it.

I. JURISDICTION AND VENUE

1. The jurisdiction of this Court is invoked pursuant to the provisions of Tenn. Code Ann. § 47-18-108. Venue is proper in Williamson County, pursuant to the provisions of Tenn. Code Ann. § 47-18-108(a)(3), because it is a county in which Defendants conduct business. Defendants Allied Marketing Group, Inc. ("Allied"), Sweepstakes Clearinghouse and Audio Telecom have been provided with the ten (10) days notice of contemplated

STATE OF TENNESSEE  
WILLIAMSON COUNTY  
I, THE UNDERSIGNED CLERK & MASTER, DO  
HEREBY CERTIFY THIS TO BE A TRUE COPY  
OF THE ORIGINAL OF THIS INSTRUMENT  
FILED IN THIS CAUSE

Stacey L. Unkles



## II. PARTIES

2. Pursuant to Tenn. Code Ann. §§ 47-18-108(a)(1) and 47-18-114, this action is commenced in the name of the State of Tennessee, by the Attorney General, at the request of the Division. (See Exhibit 1, Affidavit and Verification of Elizabeth Owen, Director of the Division of Consumer Affairs).

3. Defendant Allied Marketing Group, Inc. d/b/a Sweepstakes Clearinghouse is identified on the two hundred dollar savings certificates mailed to Tennessee consumers and/or persons. The certificates stated "Sweepstakes Clearinghouse A Division of the Allied Marketing Group, Inc.". Information received from the Delaware Secretary of State's Office indicates that Allied Marketing Group, Inc. is a Delaware corporation. Their registered agent for service of process is The Corporation Trust Company, 1209 Orange Street, Wilmington, Delaware 19801. The Delaware records also indicate that Allied's principal place of business is 1555 Regal Row, Dallas, Texas 75247. Additionally, according to the Tennessee Secretary of State's Office, Allied Marketing Group, Inc. is not a Tennessee corporation and does not have a certificate of authority to do business in Tennessee. Allied Marketing Group, Inc., doing business as Sweepstakes Clearinghouse is, and at all times relevant hereto has, generally engaged in the business of offering prizes or awards through the use of a variety of 1-800 numbers.

4. Defendant Sweepstakes Clearinghouse is identified on the postcard mailed to Tennessee consumers and/or persons as the party mailing the postcard and indicates their return address. The address stated on the postcard is 1555 Regal Row, Dallas, Texas 75247. Information received from the Texas Secretary of State's Office indicates that Sweepstakes

Clearinghouse is not a Texas corporation. Additionally, according to the Tennessee Secretary of State's Office, Sweepstakes Clearinghouse is not a Tennessee corporation and does not have a certificate of authority to do business in Tennessee. Sweepstakes Clearinghouse is, and at all times relevant hereto has, generally engaged in the business of offering prizes or awards through the use of a variety of 1-800 numbers.

5. Defendant Audio Telecom is identified on the bills and/or invoices for the "toll free" call or alleged "service" which are mailed to Tennessee consumers and/or persons. The address stated on the bill is Post Office Box 561507, Dallas, Texas 75356-1507. Information received from the Texas Secretary of State's Office indicates that Audio Telecom is not a Texas corporation. Additionally, according to the Tennessee Secretary of State's Office, Audio Telecom is not a Tennessee corporation and does not have a certificate of authority to do business in Tennessee. Audio Telecom is, and at all times relevant hereto has, generally engaged in the business of billing consumers and/or persons for a 1-800 telephone call placed to claim prizes or awards and/or for the alleged "services" of prize verification.

### III. FACTUAL ALLEGATIONS

6. Defendant Sweepstakes Clearinghouse has solicited consumers to call a variety of 1-800 numbers through the direct mailing of postcards to Tennessee consumers and/or persons. A true and exact copy of Sweepstakes Clearinghouse's postcard solicitation is attached as Exhibit A to the Affidavit of R. M. Andre which is attached as Exhibit 2 to this Complaint. The postcard states:

#### OFFICIAL NOTICE

THIS IS YOUR OFFICIAL NOTIFICATION THAT YOU HAVE  
DEFINITELY BEEN AWARDED (TWO) OF THE ITEMS SHOWN BELOW  
AND YOU MUST CLAIM THEM IMMEDIATELY!

7. The prizes or awards offered by Defendant Sweepstakes Clearinghouse, according to the postcard referred to in paragraph six (6) are as follows:

\$10,000.00 CASH PRIZE  
\$ 1,000.00 CASH PRIZE  
\$200 SAVINGS CERTIFICATE  
\$100 U.S. SAVINGS BOND

This portion of the postcard does not clearly and conspicuously nor adequately disclose that the consumer will most likely receive two of the same award, i.e. two (2) - two hundred dollar (\$200.00) savings certificates. This is disclosed on the back of the postcard and at the bottom in very small print.

8. In order "to claim your prize" consumers and/or persons are urged to "CALL TOLL-FREE 1-800-(number)". No charge or costs associated with claiming the prize and/or award are listed on the postcard. Additionally, the consumer and/or person is not provided an alternate form of entry on the postcard mailed out by Sweepstakes Clearinghouse.

9. The postcard urges consumers and/or persons to act quickly and call a 1-800 number to claim their prize by stating:

IMPORTANT YOU MUST RESPOND BY (DATE) OR YOU WILL  
FORFEIT YOUR AWARDS. PHONES WILL BE ANSWERED (24)  
HOURS A DAY (7) DAYS A WEEK.

10. Information received from American Telephone and Telegraph Company in response to a Request for Consumer Protection Information indicates that West Interactive Corporation leases the 800 number line identified on the postcard as 1-800-422-2313 to Defendant Allied Marketing Group, Inc d/b/a Sweepstakes Clearinghouse. West Interactive receives service through American Telephone and Telegraph Company. Specifically, West Interactive provides 800 service for Defendant Allied Marketing Group, Inc. d/b/a Sweepstakes Clearinghouse to operate an award/prize notification line. (See Exhibit 3 Affidavit of LaNita S. Boyd of American Telephone and Telegraph Company).

11. Information received from American Telephone and Telegraph Company in response to a Request for Consumer Protection Information indicates that West Interactive Corporation leases a second 800 number line (1-800-551-1214) to Defendant Allied Marketing Group, Inc. d/b/a Sweepstakes Clearinghouse. (See Exhibit 3 affidavit of LaNita S. Boyd of American Telephone and Telegraph Company).

12. When consumers and/or persons call one of the 800 numbers to claim their prize or award, a pre-recorded message states that if they want manual processing of their prize they can mail in their request, which will require three to four (3-4) weeks for delivery of their awards. Otherwise, they should continue on the line for computerized authorization. The recording states:

...To discover which of the prizes you have won, you may mail your notification with a self-addressed, stamped No. 10 envelope to Sweepstakes Clearinghouse and allow three to four weeks for manual processing, or you can stay on the line for immediate notification and delivery of your prizes or awards

\* \* \*

(Consumer inputs "verification" information.) .

Congratulations! Based on the number you have entered you have been awarded two \$200 savings certificates. Your savings certificates will be sent to you immediately and you should receive them within two to three weeks.

\* \* \*

(At this point, consumer has already been charged for the call or "service" for "immediate delivery".)

Once again, you should receive your prize within two to three weeks.

(See Exhibit B to the Affidavit of Charles Randles which is attached as Exhibit 4 to this Complaint.)

13. During the 1-800 call, the cost of the call or alleged "service" is neither clearly and conspicuously nor

adequately disclosed. In fact, the cost is only mentioned once during the taped message:

There is no charge for the call itself, which lasts just three or four minutes. This is a computerized automated service provided for your convenience, and you will be billed separately by Audio Telecom at \$3.90 per minute for its use. You may hang up without being charged or press 1 to find out what you have won now.

(See Exhibit B to the Affidavit of Charles Randles which is attached as Exhibit 4 to this Complaint.)

14. At the conclusion of the 1-800 pre-recorded message the consumer and/or person, after spending three dollars and ninety cents (\$3.90) per minute for approximately four minutes, is informed that they will not receive "immediate notification and delivery" but it will take "two to three weeks for delivery". According to the transcript: "Your savings certificates will be sent to you immediately and you should receive them within two to three weeks".

15. The consumers and/or persons who complained to the Division of Consumer Affairs all won two (2) - "\$200 savings certificate(s)". These certificates have restrictions that are not disclosed on the postcard or during the 1-800 telephone call. For example, the consumer may only redeem one savings certificate at a time for merchandise. Also, the certificates have expiration dates. In one case, one certificate was issued on February 7, 1992 and was "VOID AFTER FEBRUARY 23, 1992" and the other certificate was issued on February 7, 1992 and was "VOID AFTER MARCH 24, 1992". (See Exhibit C to the Affidavit of R. M. Andre which is attached as Exhibit 2 to this Complaint.

16. The restrictions referred to in paragraph fifteen (15) are also not disclosed during the pre-recorded message of the 1-800 telephone call. The message states:

Congratulations! Based on the number you have entered you have been awarded two \$200 savings certificates. You can apply them towards the purchase of merchandise offered by Sweepstakes Clearinghouse. You will get to select from a variety of name brand products. Choose from electronics, jewelry, tools, travelware and home furnishings, all brand new from trusted manufacturers such as RCA, Pierre Cardin, Singer, Magnavox and more. Other terms and conditions will be included with your certificate. Once again, you should receive your prize within two to three weeks.

While the message does disclose that you may use "them" towards the purchase of merchandise, it does not disclose that you may only use one certificate per purchase. The message also does not disclose the expiration dates. Instead, it informs the consumer that they will learn of the "other terms and conditions" when they receive their certificates. (See Exhibit B to the Affidavit of Charles Randles which is attached as Exhibit 4 to this Complaint.)

17. Defendant Audio Telecom charges the Tennessee consumers and/or persons for the 1-800 call or "service". The bills and/or invoices actually state "AUDIO TELECOM - INTERACTIVE INFORMATION SERVICES: (date) SWEEPSTAKES CLEARINGHOUSE 4 MIN @ 3.90 CALL TO 800-422-2313 (TOLL FREE)". Consumers and/or persons who complained to the Division of Consumer Affairs were charged from eleven dollars and forty cents (\$11.40) to fifteen dollars and sixty cents (\$15.60) for the "toll free" call and/or alleged "service". The bill resembles a standard telephone bill. It has a telephone symbol located in a number of places on the bill and/or invoice. The account number is the consumer's telephone number plus three digits. An AT&T brochure and a return envelope are enclosed. The form of the billing is misleading to consumers. Consumers may believe that their phone service will be terminated or otherwise affected for non-payment. (See Exhibit B to the Affidavit of R. M. Andre which is attached as Exhibit 2 to this Complaint.)

18. Defendants Allied Marketing Group, Inc. d/b/a Sweepstakes Clearinghouse and Sweepstakes Clearinghouse

unnecessarily prolong the 1-800 telephone call so that consumers will be charged additional sums of money given that the consumer is billed at a rate of three dollars and ninety cents (\$3.90) per minute. For example during the pre-recorded message the consumer is told:

"Sweepstakes Clearinghouse is one of the largest promotional companies in America. Now with over 200 employees, thousands of prize winners and millions of satisfied customers we continue to try and come up with new and exciting ways to promote our products."

Additionally, consumers are asked to go through a verification process where the consumer supplies the claim number, address verification, and in order that they may be contacted "concerning delivery", the consumer must provide their telephone number. During all of these messages and processes the consumer and/or person is being billed three dollars and ninety cents (\$3.90) per minute. (See Exhibit B to the Affidavit of Charles Randles which is attached as Exhibit 4 to this Complaint.)

19. Some consumers and/or persons were charged for the "service" or "toll-free call" even if they terminated the call after hearing this statement "(y)ou may hang up without being charged or press 1 to find out what you have won now". (See Exhibit B to the Affidavit of Charles Randles which is attached as Exhibit 4 to this Complaint.)

20. Tennessee consumers and/or persons have suffered and may continue to suffer damages as a result of the activities described herein.

#### IV. VIOLATIONS OF THE LAW

21. The award and/or prize promotion offered by Defendants, as alleged herein, constitutes "trade", "commerce" and/or a "consumer transaction" and the providing of "goods" and/or "services" as defined in Tenn. Code Ann. § 47-18-103(5), (8), and (9).

22. All of the acts and practices engaged in and employed by Defendants, as alleged in Paragraphs 6-20 hereof, are "unfair or deceptive acts or practices affecting the conduct of any trade or commerce" in Tennessee, which are declared unlawful by Tenn. Code Ann. § 47-18-104(a).

23. The actions of Defendants alleged in Paragraphs 6-20 hereof also violate the specific provisions of Tenn. Code Ann. §§ 47-18-104(b)(3), (b)(5), (b)(27), (f)(2)(J)(i) and (f)(2)(k), which provide that the following acts or practices are declared unlawful:

(b)(3) Causing likelihood of confusion or misunderstanding as to affiliation, connection or association with, or certification by, another. . . ;

\* \* \*

(b)(5) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that he does not have;

\* \* \*

(b)(27) Engaging in any other act or practice which is deceptive to the consumer or to any other person.

\* \* \*

104(f)(2)(J)(i) Failing to clearly and conspicuously disclose in any initial offer, at a minimum, the following:

(a) A general description of the types and categories of any restrictions, qualifications, or other conditions, that must be satisfied before the consumer or person is entitled to receive or use the prize, gift or award, or thing of value...

(b) The approximate total of all costs, fees, or other monetary obligations that must be satisfied before the consumer or person is entitled to receive or use the prize, gift or award, or thing of value pursuant to subdivision (f)(1)(B), or product or service offered; and

(c) That the details and an explanation of all restrictions, qualifications, or other conditions of the offer shall be provided prior to the acceptance of the offer...

\* \* \*

104(f)(2)(K) Misrepresenting in any manner



the rules, terms, restrictions, monetary obligations, or conditions of participation in the promotional plan or offer...

24. As a result of the violations of the Act alleged herein, consumers and/or persons, the exact number of whom is presently unknown to Plaintiff, have suffered ascertainable losses of money or property.

25. The unlawful activities of Defendants as alleged in this Complaint are continuing, and, pursuant to Tenn. Code Ann. § 47-18-108, should be enjoined.

#### PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, THE STATE OF TENNESSEE PRAYS:

(1) That this Complaint be filed without cost bond as provided by Tenn. Code Ann. §§ 20-13-101, 47-18-108, and 47-18-116.

(2) That process issue and be served upon Defendants requiring them to appear and answer this Complaint.

(3) That this Court adjudge and decree that Defendants have engaged in the aforesaid acts or practices in violation of the Tennessee Consumer Protection Act.

(4) That this Court enjoin Defendants from engaging in the following acts or practices, which are violative of the Tennessee Consumer Protection Act:

- (a) Failing to not clearly and conspicuously disclose the cost of the 800 call and/or "service", including the average duration of a call and the length of any pre-recorded segment;
- (b) Stating that there is no charge for the call or that the call is "toll free" when in fact the consumer will be charged for placing the call or using the "service";
- (c) Failing to disclose the cost of claiming the prize or award through the 800 number on the initial solicitation device;
- (d) Representing that delivery and notification will be immediate if the consumer calls the 1-800 number and uses the "service" when in fact the